

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Theresa J. Meyer

v.

Case No. 09-cv-106-PB

James M. Callahan, et al.

O R D E R

Defendants' motion to disqualify Attorney Bird from representing plaintiff (Doc. No. 76) is denied without prejudice for the following reasons:

1. Defendants have failed to demonstrate that Attorney Bird can supply testimony on any contested issue of material fact.
2. Defendants have failed to demonstrate that Attorney Bird's anticipated testimony is unobtainable elsewhere.
3. Disqualifying Attorney Bird from representing plaintiff during pretrial proceedings will cause plaintiff unreasonable hardship.

The court will revisit the issue at the final pretrial conference. The parties shall meet and confer prior to the final conference and attempt in good faith to enter into stipulations that will make it unnecessary for Attorney Bird to testify at

trial. Attorney Mullen shall be prepared to try the case in the event that Attorney Bird is recused from further participation in the case at the final pretrial conference.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

August 19, 2010

cc: Daniel J. Mullen, Esq.
Roger A. Bird, Esq.
Stephen David Coppolo, Esq.
William C. Saturley, Esq.
Mark E. Howard, Esq.